

House File 2397 - Introduced

HOUSE FILE 2397

BY UPMEYER

A BILL FOR

1 An Act relating to prohibiting a person who is subject to a
2 protective order or who has been convicted of a crime of
3 domestic violence from possessing firearms and offensive
4 weapons and providing a penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **236.7A Electronic tracking and**
2 **monitoring.**

3 Upon the issuance of a protective order issued under this
4 chapter or chapter 232 or 598, the court may require a judicial
5 district department of correctional services to supervise the
6 defendant by an electronic tracking and monitoring system at
7 the defendant's expense.

8 Sec. 2. Section 724.26, Code 2009, is amended to read as
9 follows:

10 **724.26 Possession, receipt, transportation, or dominion and**
11 **control of firearms and offensive weapons by felons.**

12 1. A person who is convicted of a felony in a state or
13 federal court, or who is adjudicated delinquent on the basis
14 of conduct that would constitute a felony if committed by an
15 adult, and who knowingly has under the person's dominion and
16 control or possession, receives, or transports or causes to be
17 transported a firearm or offensive weapon is guilty of a class
18 "D" felony.

19 2. A person who is subject to a protective order issued
20 pursuant to chapter 232, 236, or 598, that meets the
21 requirements of subsection 3 or who has been convicted of a
22 misdemeanor crime of domestic violence who knowingly sells,
23 disposes of, possesses, ships, transports, or receives a
24 firearm or offensive weapon, is guilty of a class "D" felony.
25 Such a person shall not be eligible to obtain a permit under
26 this chapter and any permits issued to such a person are deemed
27 revoked.

28 3. A protective order referred to in subsection 2 shall meet
29 all of the following requirements:

30 a. Be issued after a hearing of which the person was granted
31 notice and an opportunity to be heard.

32 b. Restrain the person from harassing, stalking, or
33 threatening an intimate partner of the person or a child of
34 such intimate partner or person from engaging in any other
35 conduct that would place such intimate partner or child in

1 reasonable fear of bodily injury to the intimate partner or
2 child.

3 c. Include a finding that the person poses a credible threat
4 to the physical safety of such intimate partner of the person
5 or a child of such intimate partner or person or by its terms
6 explicitly prohibits the use, attempted use, or threatened use
7 of physical force against such intimate partner or child that
8 would reasonably be expected to cause bodily injury.

9 4. A person who commits a violation of subsection 2 shall
10 be ordered by a court to relinquish all firearms and offensive
11 weapons in the person's actual or constructive possession
12 to the county sheriff. If the person does not comply with
13 the relinquishment order by the date and time required to do
14 so, the sheriff shall seek an arrest warrant for the person
15 for a violation of the relinquishment order and shall seek a
16 search warrant for the person's residence or any other location
17 where there is probable cause to believe that the firearms and
18 offensive weapons may be located.

19 5. For purposes of this section:

20 a. "Intimate partner" means a person who is in a
21 relationship as defined in section 236.2, subsection 2,
22 paragraphs "a" through "e".

23 b. "Misdemeanor crime of domestic violence" means a
24 misdemeanor offense which has as an element the use or
25 attempted use of physical force or the threatened use of a
26 deadly weapon committed by a current or former spouse, parent,
27 or guardian of the victim, by a person with whom the victim
28 shares a child in common, by a person who is cohabiting with
29 or who has cohabited with the victim as a spouse, parent,
30 guardian, or by a person similarly situated to a spouse,
31 parent, or guardian of the victim.

32 EXPLANATION

33 This bill relates to the prohibition of a person who is
34 subject to a protective order or who has been convicted of
35 a crime of domestic violence from possessing firearms and

1 offensive weapons and provides a penalty.

2 The bill relates to a person who is subject to a protective
3 order issued pursuant to Code chapter 232 (juvenile justice),
4 236 (domestic abuse), or 598 (dissolution of marriage and
5 domestic relations) after a hearing of which the person was
6 granted notice and an opportunity to be heard, that restrains
7 the person from harassing, stalking, or threatening an intimate
8 partner or a child of such intimate partner or person from
9 engaging in any other conduct that would place the intimate
10 partner or child in reasonable fear of bodily injury to the
11 intimate partner or child, and that includes a finding that the
12 person poses a credible threat to the physical safety of the
13 intimate partner or child or by its terms explicitly prohibits
14 the use, attempted use, or threatened use of physical force
15 against the intimate partner or child that would reasonably be
16 expected to cause bodily injury, or to a person who has been
17 convicted of a misdemeanor crime of domestic violence. Such
18 a person who knowingly sells, disposes of, possesses, ships,
19 transports, or receives a firearm or offensive weapon, is
20 guilty of a class "D" felony. A class "D" felony is punishable
21 by confinement for no more than five years and a fine of at
22 least \$750 but not more than \$7,500.

23 The bill provides that a person who commits a violation of
24 the bill shall be ordered by a court to relinquish all firearms
25 and offensive weapons in the person's actual or constructive
26 possession to the county sheriff. If the person does not
27 comply with the relinquishment order by the date and time
28 required to do so, the sheriff shall seek an arrest warrant
29 for the person for a violation of the relinquishment order
30 and shall seek a search warrant for the person's residence or
31 any other location where there is probable cause to believe
32 that the firearms and offensive weapons may be located. In
33 addition, such a person shall not be eligible to obtain a
34 permit under Code chapter 724 and any permits issued to such a
35 person are deemed revoked.

1 The bill provides that upon the issuance of a protective
2 order issued under Code chapter 232, 236, or 598, the court
3 may require a judicial district department of correctional
4 services to supervise the defendant by an electronic tracking
5 and monitoring system at the defendant's expense.

6 For purposes of the bill, "intimate partner" means a person
7 who is in a relationship as defined in Code section 236.2,
8 subsection 2, paragraphs "a" through "e" and "misdemeanor crime
9 of domestic violence" means a misdemeanor offense which has as
10 an element the use or attempted use of physical force or the
11 threatened use of a deadly weapon committed by a current or
12 former spouse, parent, or guardian of the victim, by a person
13 with whom the victim shares a child in common, by a person who
14 is cohabiting with or who has cohabited with the victim as a
15 spouse, parent, guardian, or by a person similarly situated to
16 a spouse, parent, or guardian of the victim.